

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JEFFERY M. WALKER,	:
Petitioner	:
v.	: Case No. 3:10-cv-324-KRG-KAP
ROBERT WERLINGER, WARDEN,	:
F.C.I. LORETTO,	:
Respondent	:

Memorandum Report and Recommendation

More than a month after this matter was dismissed for failure to prosecute, Walker sent correspondence to the court (part of which is dated May 13, 2011, part of which is dated May 30, 2011) complaining that he only now received free postage from the Bureau of Prisons, and asking "that consideration be given to this case and the extenuating circumstances involved."

The correspondence, if the court is inclined to treat it as a motion to reconsider or as a motion for relief from judgment, should be denied. Walker's dismissed matter was a complaint submitted on a habeas corpus form last December complaining about not receiving adequate cold weather clothing. It was reasonable to believe that Walker had lost interest in the matter now that it is Spring. If Walker wants to pay the \$350.00 filing fee for a civil complaint to litigate a moot point I cannot stop him from filing a new complaint. But if this matter were to be re-opened, Walker's attempt to litigate a prison conditions complaint at habeas corpus prices would be dismissed, and Walker would still have to start again with a complaint on complaint forms. There is no point to encouraging wasteful litigation.

Pursuant to 28 U.S.C. § 636(b)(1), the petitioner is given notice that he has fourteen days to file written objections to this Report and Recommendation.

DATE: May 18, 2011

KEITH A. PESTO

Keith A. Pesto,  
United States Magistrate Judge

Notice by U.S. Mail to:

Jeffery M. Walker, Reg. No. 33424-069  
F.C.I. Loretto  
P.O. Box 1000  
Loretto, PA 15940